

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

MICHAEL WALKER,	:	Civil No. 3:24-cv-389
	:	
Plaintiff	:	(Judge Mariani)
	:	
v.	:	
	:	
N.W. ANDERS, <i>et al.</i> ,	:	
	:	
Defendants	:	

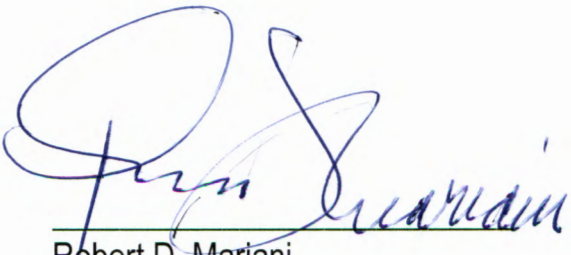
**ORDER**

**AND NOW**, this 13<sup>th</sup> day of January, 2025, upon consideration of Defendants' motion (Doc. 14) to dismiss, and the parties' respective briefs in support of and in opposition to said motion, and for the reasons set forth in the accompanying Memorandum, **IT IS HEREBY ORDERED THAT:**

1. The motion (Doc. 14) is **GRANTED** in part and **DENIED** in part.
2. The motion is **GRANTED** as follows:
  - a. The motion to dismiss the conspiracy claims against Anders and Wendle is **GRANTED without prejudice** and with leave to amend.
  - b. The motion to dismiss the equal protection claim against Pittsinger is **GRANTED without prejudice** and with leave to amend.
  - c. Plaintiff may file, on or before January 23, 2025, a proposed amendment with respect to his conspiracy claims against Anders and Wendle and his equal protection claim against Pittsinger. Failure to timely file a proposed amendment will convert the dismissal of these claims without prejudice to a dismissal with prejudice without the necessity of a further Order of Court.

- d. The motion to dismiss the state law claims is **GRANTED with prejudice**.
  - e. The motion to dismiss the failure to intervene claim against Pittsinger, Sheffield, and Rivello is **GRANTED with prejudice**. The Clerk of Court is directed to **TERMINATE** Corrections Food Service Instructor Sheffield and Superintendent Rivello as Defendants in this action.
- 3. The motion to dismiss is **DENIED** in all other respects.
  - 4. Defendants Anders and Ellenberger shall **FILE** an answer to the surviving claims on or before February 3, 2025.
  - 5. On or before February 3, 2025, the parties shall **NOTIFY** the Court of their willingness to consent to the jurisdiction of a United States Magistrate Judge. See 28 U.S.C. § 636(c).
  - 6. Discovery shall be completed on or before February 27, 2025. In accordance with Local Rule of Court 5.4(b), the parties shall refrain from filing discovery requests with the Court.
  - 7. Dispositive motions shall be filed on or before March 31, 2025.
  - 8. No extensions of the pre-trial schedule shall be granted absent good cause. See FED. R. CIV. P. 16(b).
  - 9. Any motions or briefs filed after the expiration of the applicable deadline, without prior leave of court, shall be stricken from the record.
  - 10. The scheduling of a final pre-trial conference and the trial date of this matter is deferred pending disposition of dispositive motions.

11. Any appeal from this Order is **DEEMED** frivolous and not taken in good faith. See 28 U.S.C. § 1915(a)(3).



Robert D. Mariani  
United States District Judge